

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

KYLE HELM, et al.,

Plaintiffs,

v.

Case No. 3:21-cv-900-TJC-JRK

DUVAL COUNTY SCHOOL
BOARD,

Defendant.

ORDER

This case is brought by students and their parents challenging Defendant Duval County School Board's (DCSB) mask policy. The case is before the Court on DCSB's Motion to Dismiss (Doc. 13) and Plaintiffs' Motion for Preliminary Injunction (Doc. 14). On October 14, 2021, the Court held a status conference at which the Court discussed with the parties whether federal question jurisdiction was properly invoked. Plaintiffs asked for leave to file an amended complaint to either clearly allege federal claims or to allege actions solely under state law. If Plaintiffs do not plead federal law claims in their amended complaint, the Court would be divested of jurisdiction and the case would be sent back to state court. See Pintando v. Miami-Dade Hous. Agency, 501 F.3d 1241, 1243 (11th Cir. 2007). The Court, believing it best to resolve this issue before proceeding further, granted Plaintiffs' motion. In light of the Court's

decision, the pending Motion to Dismiss and Motion for Preliminary Injunction are moot.

Accordingly, it is hereby

ORDERED:

1. Plaintiffs' ore tenus Motion for Leave to Amend their Complaint is **GRANTED**. Plaintiffs shall file an amended complaint no later than **October 26, 2021**. If Plaintiffs remove all federal claims from the amended complaint, Plaintiffs shall file an accompanying motion to remand on that same date.

2. If Plaintiffs file a motion to remand, DCSB may respond no later than **October 29, 2021**.

3. If the case is not remanded, DCSB shall respond to Plaintiffs' amended complaint, by motion or otherwise, no later than **November 12, 2021**.

4. DCSB's Motion to Dismiss (Doc. 13) and Plaintiffs' Motion for Preliminary Injunction (Doc. 14) are **MOOT**.

5. In light of this Order, the October 15, 2021 hearing is **CANCELLED**.

DONE AND ORDERED in Jacksonville, Florida the 14th day of
October, 2021.



Timothy J. Corrigan

TIMOTHY J. CORRIGAN
United States District Judge

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Copies:

Counsel of record